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## 5 Trade policy developments

Although not a major trading nation in global terms, Australia has a strong economic interest in the rules and arrangements that govern international trade. Australia's approach to trade reform over recent decades has focussed mainly on unilateral trade liberalisation, supported by its participation in the multilateral trading system. Australia also has regional trade arrangements with some neighbouring countries in the South Pacific, and pursues regional initiatives to encourage trade liberalisation through the Asia Pacific Economic Cooperation (APEC) forum.

This chapter reports on two recent developments in the trade policy area:

- the outcomes of the WTO Ministerial Conference held recently in Doha; and
- recent efforts by the Australian Government to establish regional trading agreements with particular APEC members.

### 5.1 Multilateral trade negotiations

The Fourth WTO Ministerial Conference, held in Doha during November 2001, successfully launched a new round of multilateral trade negotiations. WTO member governments agreed to negotiations covering a broad range of issues (box 5.1) with significant implications for the development of world trade. As a WTO member, Australia is a participant in the new round.

The WTO provides a stable, rules-based system for the conduct of international trade, and has provided significant benefits and legal protections for small to medium-sized trading nations such as Australia (PC 2000d, 2001a). Successive rounds of trade negotiations under the WTO and its predecessor (the General Agreement on Trade and Tariffs — GATT) have facilitated substantial reductions in many trade barriers over more than 50 years, and underpinned strong expansion of international trade and rising living standards. Significant barriers to trade are still present, however, particularly in areas such as agriculture, textiles and clothing.

Most of the economic gains from trade liberalisation accrue to countries from reducing their own trade barriers, *irrespective of whether other countries reduce their barriers or not*. Australia has benefited from its unilateral liberalisation over recent decades (PC 2001a). Nevertheless, Australia gains additional benefits from

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### Box 5.1 The key Doha outcomes at a glance

At the Fourth WTO Ministerial Conference, trade ministers from the 142 WTO member governments agreed to launch a new round of multilateral trade negotiations. The negotiations, to be conducted over three years, will cover the following areas.

- *Agriculture* — comprehensive negotiations will aim to increase market access and reduce long standing export subsidies and domestic support.
- *Non-agricultural goods* — negotiations will aim to increase market access through reductions in tariffs and increased disciplines on non-tariff barriers.
- *Services* — existing negotiations will continue to achieve the goals of the GATS.
- *Environment* — negotiations will look at the relationship between WTO rules and the Multilateral Environmental Agreements and aim to reduce trade barriers on environmental goods and services.
- *Intellectual property rights* — existing negotiations to establish a multilateral system for registration and notification of geographical indications for wines are to be completed and the system extended to spirit geographical indications.
- *Foreign investment, competition policy, government procurement and trade facilitation* — negotiations on these issues are scheduled to take place after the next WTO Ministerial Conference in 2003, subject to a consensus on modalities.
- *Subsidies and countervailing measures and the dispute settlement understanding* — negotiations will seek to clarify and improve existing WTO rules.
- *Regional trading arrangements* — negotiations will seek to clarify and improve existing WTO disciplines.

In addition, the Doha conference agreed to several measures to assist developing countries, and clarified contentious aspects of the TRIPS agreement (see box 5.2).

Source: WTO 2001c.

the growth in world trade and enhanced access to export markets that multilateral liberalisation brings.

In recent years, there has been increasing public debate about the role and merits of the WTO. (The Commission commented on these matters in last year's Annual Report (PC 2000d).) Against a backdrop of 'anti-globalisation' protests, misgivings among WTO member governments about what issues should be dealt with in future multilateral trade negotiations scuttled attempts to launch a new round of negotiations at the Seattle Ministerial Conference in 1999.

The Doha conference overcame many of the difficulties encountered in Seattle, and agreed to negotiations on a wide range of trade issues, including:

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- traditional sectors, such as agriculture and textiles, in which protection remains high and negotiation has been difficult;
  - services and industrial goods; and
  - new areas, such as the relationship between trade and the environment, investment and competition policy.

Measures were also agreed upon to provide special assistance for developing countries, and the conference clarified the relationship between the TRIPS Agreement and public health issues (box 5.2). The conference also agreed to the accession of China and Taiwan into the WTO.

The negotiations are to be completed by January 2005, in the form of a ‘single undertaking’. That is, member governments will be required to ‘take all or leave all’ of the trade commitments bargained during the round. At this stage, details of the actual negotiations are still to be developed.

The Commission commented on various aspects of the (then prospective) negotiating agenda in a submission to the Department of Foreign Affairs and Trade (DFAT), prior to the Doha Conference (PC 2001a). Aspects of the Doha declaration are discussed below.

## **Agriculture**

During the Uruguay Round, WTO member governments agreed to some disciplines on market access barriers and the level of domestic support and export subsidies. However, overall levels of support and protection for agriculture continue to be extremely high, particularly in OECD countries, as means of circumventing the Uruguay disciplines have evolved.

Effective multilateral trade reform in agriculture could generate significant gains to Australia and other countries that export agricultural products, including many developing countries. Australia has a particular interest in encouraging multilateral reductions in protection in those areas of agriculture in which Australia is a major exporter or potential exporter, including beef, wheat, sugar, dairy products and rice.

The Doha Conference involved intense discussions on agricultural protection. Australia, together with other members of the Cairns Group, advocated a strong negotiating mandate aimed at securing substantial improvements in market access, reductions in domestic support and reductions, leading to elimination, of export subsidies. The United States also supported an ambitious negotiating mandate, despite recent decisions in that country to maintain or increase large-scale domestic support programs. The European Union, against almost universal opposition, sought

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to retain the right to export subsidies. Japan, which has been strongly opposed to agricultural trade reform and maintains extremely high levels of support and protection in agriculture, adopted a flexible approach at Doha in agreeing to accept the negotiating text on agriculture. The final declaration states:

...without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support.

Although this negotiating mandate appears promising, there inevitably remains some uncertainty about the extent to which it will translate into substantive reform. Among other things, the European Union, which is the main user of export subsidies, has sought to interpret the words “without prejudging the outcome of the negotiations” as an assurance that it will not be driven by the WTO agenda in reforming its use of export subsidies. According to DFAT, however, the declaration anticipates that export subsidies will be phased out or eliminated, and the question to be negotiated is purely one of timing.

Draft schedules of commitments are to be submitted to the WTO by the date of the next Ministerial Conference, which is due to be held in late 2003.

## **Non-agricultural goods and services**

WTO member governments have agreed to further negotiations aimed at increasing market access for non-agricultural products. The negotiations will cover all products and seek to:

... reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, as well as non-tariff barriers.

The process for negotiating on non-agricultural goods is yet to be decided.

In relation to services, negotiations are already under way as part of the built-in agenda<sup>1</sup> of the GATS following the Uruguay Round of negotiations. At the Doha conference, WTO member governments agreed to further negotiations aimed at liberalising trade in services. The first round of liberalisation demands is to be submitted by 30 June 2002, with initial reform offers due by 31 March 2003.

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<sup>1</sup> As part of the Uruguay round agreements, member economies agreed that in cases of services and agriculture, negotiations would continue beyond the initial undertakings of that round.

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## Box 5.2      **Developing countries issues in the WTO**

At the Doha conference, WTO member countries agreed to several measures to assist developing countries. The WTO will:

- continue to provide ‘capacity building’ and technical assistance to developing countries with priorities for “small, vulnerable and transition economies as well as members and observers without representation in Geneva”;
- set up working groups to look at the relationships between trade debt and finance, and trade and the transfer of technology to developing countries;
- undertake negotiations with the objective of providing “duty free, quota free market access for products originating from least developed countries” (although no mechanism has been set for this to occur);
- review special and differential treatment provisions with a view to “strengthening them and making them more precise, effective and operational”.
- work towards facilitating and accelerating the accession of Least Developed Countries and other small economies into the WTO.

In addition, the Doha conference clarifies the rights of individual governments to address public health issues under the Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement. While the TRIPS agreement provides protection for intellectual property rights to encourage investment in R&D, there were uncertainties about the ability of countries to take measures to combat public health problems, such as AIDS or tuberculosis epidemics. This was highlighted recently in the disputes between the South African Government and pharmaceutical companies.<sup>a</sup>

The resulting Ministerial Declaration agreed that ‘the TRIPS agreement does not and should not prevent Members from taking measures to protect public health’:

- under ‘compulsory licences’ provisions, countries can produce patented products without the consent of (and without giving compensation to) the patent holder in cases of ‘national emergency or other circumstances of extreme urgency’; and
- each country has ‘the right to determine what constitutes a national emergency or other circumstances of extreme urgency’ and that public health crises (including disease epidemics) can represent such occasions.

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<sup>a</sup> In 1997, the South African Government passed legislation allowing the importation and manufacture of generic versions of patented pharmaceuticals to assist in combating the AIDS epidemic in the country. Several pharmaceutical companies then initiated a legal challenge claiming that the legislation violated South Africa’s TRIPS obligation. Against a background of public concern, the pharmaceutical companies withdrew their challenge.

Source: WTO 2001c.

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## Geographical indicators

Potential extensions to the protections for ‘geographical indicators’ under the WTO TRIPS agreement are an area of potential concern for Australia that was considered at Doha.

‘Geographical indicators’ are names — like Champagne and Beaujolais (or Coonawarra) in the case of wine, and Camembert in the case of cheese — which identify a good as originating in a particular locality, region or territory, where “a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin” (TRIPS Article 22). The TRIPS Agreement currently requires WTO member governments to disallow the use of geographical indicators in ways that are misleading or that amount to unfair competition (Article 23), and confers a higher level of protection of wine and spirits-related geographical indicators (Article 24).

The European Union negotiated a bilateral agreement with Australia in 1994, under which Australia surrendered the right to use many wine names claimed by the European Union as geographical indicators. Concerns could arise for Australian producers in some other industries if these principles were extended to other goods.

The Doha conference agreed that the multilateral notification and registration system for wine-related geographical indicators, that is currently being negotiated by WTO members, will be extended to cover spirits. However, the Doha declaration stopped short of mandating negotiations on whether the TRIPS protections for wine and spirits should be extended to other products, notwithstanding the push by some WTO members (most notably the European Union) for such a mandate. Rather, this issue is to be “addressed in the Council on TRIPS”.

While stronger protections for geographical indicators may not unduly harm, or may even benefit, some Australian products and industries, the economic rationales for some mooted extensions in protection for geographic indicators are at best ambiguous, and their merits and effects on trade require further study.

## The environment

For the first time, the WTO Ministerial Conference agreed to negotiations on certain elements of the trade and environment agenda. The European Union strongly advocated the inclusion of environmental issues in a new round, but was resisted by many developing countries and a number of developed nations including Australia. The Doha declaration has set a negotiating agenda which will cover:

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- the relationship between existing WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs);
  - procedures for regular information exchange between MEA secretariats and relevant WTO committees;
  - the reduction or, as appropriate, elimination of tariff and non-tariff barriers to trade on environmental goods and services; and
  - the clarification/improvement of WTO rules on fisheries subsidies.

The Doha declaration also calls for the WTO Committee on Trade and Environment to report back to the Fifth WTO Ministerial Conference on whether there is a case for formal negotiations on other matters, including the use of product labelling requirements for environmental purposes.

The Commission notes that, while reducing trade barriers on environmental goods and services and reducing fisheries subsidies would bring benefits from both an environmental and a trade perspective, there would be risks in attempting to further link environmental policies to WTO agreements. Among other things, trade restrictions are generally poor means of addressing environmental problems: direct environmental protection measures — such as environmental standards, subsidies or charges that address *the source* of the environmental problem — will normally offer more effective solutions and tend to have fewer economic costs and side effects.

WTO rules are about trade relations, and it is not clear that relaxing the rules on environmental grounds would, on balance, be beneficial for overall community welfare (PC 2001a). In examining whether there is a case for modifying the WTO rules to allow trade sanctions in MEAs, WTO member governments will need to consider which of the existing MEAs use trade restrictions and, moreover, whether those measures are the most appropriate means of addressing environmental problems.

### **Other issues**

The Doha ministerial declaration also sets out directions on other important issues. Subject to an explicit consensus on modalities, negotiations will take place after the next ministerial conference in relation to:

- multilateral frameworks on investment and competition policy; and
- transparency aspects of government procurement and trade facilitation.

The Doha conference also agreed to negotiations aimed at clarifying and improving existing WTO disciplines in relation to Subsidies and Countervailing Measures, the

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implementation of anti-dumping provisions (Article XI of GATT), Dispute Settlement Understanding (the rules governing disputes in the WTO) and Regional Trading Arrangements (RTAs).

## Implications

The Doha declaration signals a renewed commitment to multilateral trade liberalisation and an acknowledgment by member governments of the benefits it can bring. It is, however, an agreement to negotiate, not an outcome. Given the ambitious scope of the agenda, uncertainties surrounding some of the language in the declaration and the political considerations that can influence trade negotiations, the final outcome cannot readily be foreseen.

From the viewpoint of Australia and many developing countries, the negotiating mandate in relation to agriculture may appear particularly promising.

However, achieving an outcome that delivers meaningful liberalisation in agricultural trade has proven difficult in the past, largely because of the political sensitivities in the sector in a number of countries. Progress on agriculture in this round of negotiations will be further complicated because of the tactical and substantive linkages with a number of other issues on the negotiating agenda. For example, the European Union is advancing an ambitious agenda in several problematic areas, including geographical indications and environmental labelling. The European Union is also likely to continue its efforts to codify in the WTO its version of the precautionary principle, which could be used to (unduly) restrict market access (PC 2001a). More generally, the European Union appears keen to further link environmental policies to WTO agreements, and to negotiate on contentious areas such as trade-related aspects of investment and competition policy.

Importantly, in relation to agriculture, the Doha declaration re-affirmed the clear hierarchy among the ‘three pillars’ of market access, domestic support and export subsidies, and ‘non-trade concerns’. WTO member governments committed themselves to comprehensive negotiations under the three pillars. Non-trade concerns, on the other hand, are only to be ‘taken into account’ in the negotiations. On the contentious environment and food safety issues, the European Union failed at Doha to muster broad support for its bid to commence negotiations across the breadth of its agenda. While the European Union has an opportunity to revisit these issues at the next WTO Ministerial Conference in 2003, it is likely to face substantial resistance to any attempts it might make to add new items to the environment negotiating agenda.

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Australia also stands to gain if the new round can bring further reductions in tariffs on manufacturing goods and a further liberalisation of trade in services. It would also benefit if substantive and appropriate progress is made on some other matters on the agenda, including in relation to WTO disciplines on regional trading arrangements and on the use of anti-dumping measures.

Overall, while covering some contentious areas, a number of aspects of the declaration proffer benefits for Australia. However, the extent to which these are realised will depend on the course of the detailed negotiations that lie ahead, and ultimately on an acceptance of the gains from each country's own liberalisation efforts.

## **5.2 Regional trading agreements**

Many countries, including Australia, have sought recently to negotiate RTAs with one or more trading partners. Several RTAs were developed between the mid-1950s and the 1970s. After a subsequent period of relative inactivity, the past decade has seen a revival of interest in RTAs. Since 1995, more than 100 agreements covering trade in goods or services, or both, have been notified to the WTO (WTO 2001d). However, whereas many of the RTAs in the post-war decades were plurilateral regional agreements, most of the recent agreements have been bilateral.

As noted earlier, Australia's approach to trade reform has focused mostly on unilateral liberalisation, supported and reinforced by its participation in the multilateral trading system under the GATT/WTO. Australia's main bilateral RTA is the Australia-New Zealand 'Closer Economic Relations' Agreement, established in 1983. Through the APEC forum, Australia has also pursued regional initiatives to encourage trade liberalisation.

In recent years, Australia has expressed interest in bilateral agreements with several Asia Pacific countries, including Singapore, Thailand and the United States. This move coincides with the creation of recent agreements, such as the New Zealand-Singapore agreement, and the general surge of interest in RTAs within the region.

Australia and Singapore entered into negotiations to establish a bilateral trade agreement in November 2000. According to the Australian Government, the negotiations are intended to reach a 'cutting edge agreement which will advance market access and lead to a higher level of integration between the economies of Australia and Singapore' (Vaile 2001a). The negotiations are covering goods, services and investment with a particular focus on domestic regulatory barriers, mutual recognition and harmonisation of standards and competition policy.

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Australia is also in the preliminary stages of negotiating an agreement with Thailand. In July 2001, the Government announced that Australia and Thailand were undertaking a joint scoping study on a bilateral free trade agreement (Vaile 2001b). The study will explore the feasibility of a 'Free Trade Agreement' and how to maximise its potential benefits.

During the last year, the Australian Government expressed interest in negotiating an RTA with the United States. A study commissioned by DFAT estimated that a bilateral agreement that liberalised all barriers to trade could expand the Australian economy by as much as \$4 billion per annum by 2015, and would generate a slight increase in total world exports (CIE 2001). The Government considered that, for an RTA with the United States to be worthwhile from Australia's viewpoint, the agreement would need to cover agriculture — an area in which that the United States has traditionally been resistant to substantial liberalisation.

The Commission commented on the merits of Australia entering into RTAs in its recent submission to DFAT on multilateral trading negotiations (PC 2001a).

It noted that RTAs that involve the preferential reduction of tariffs among members may create beneficial or adverse effects for members and for third parties. The exchange of tariff preferences may generate new trade, to the benefit of members and their trading partners. However, such an agreement may also divert trade from more efficient third-party producers to less efficient RTA members, to the detriment of both members and third parties. In general, which of these effects dominates is an empirical question, and several matters would need to be considered, including whether Australia's new partners would be able to 'price up' to appropriate what used to be tariff revenue.

The Commission also noted that Australia needs to guard against entering RTAs that contain extensive exclusions for sensitive sectors, such as agriculture, for three reasons:

- such agreements would probably not be in our economic interests;
- by dealing with the 'easy' trade issues and thus leaving only difficult issues to bargain on, they could undermine the chances of a successful conclusion to the multilateral trade round; and
- they would violate existing WTO rules.

In light of these and other concerns, the merits of entering into a new RTA need to be assessed carefully. The economics of RTAs suggest that, for Australia to gain substantial benefits from joining one, its coverage would have to be comprehensive, and include agricultural products. While it may be possible to obtain some net

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benefits from a more limited RTA, continuing unilateral reform and multilateral liberalisation offer the greatest gains.